

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN BRUNO PARK SCHOOL DISTRICT.

OAH Case No. 2015080500

ORDER TO SHOW CAUSE WHY
CASE SHOULD NOT BE DISMISSED
AND ORDER SETTING PREHEARING
CONFERENCE DATES

On September 28, 2015, a telephonic prehearing conference was convened before Administrative Law Judge Charles Marson, Office of Administrative Hearings. It was reported to the undersigned ALJ, Joy Redmon, that during the initial PHC, Jennifer Whipple Student's attorney exercised Student's right to preempt ALJ Marson. At that time, ALJ Marson informed the parties that the PHC would be reconvened with another ALJ at 3:15 p.m., and terminated the call.

The matter was reassigned to ALJ Redmon who attempted to convene the PHC by calling Ms. Whipple or Jean Adams (both attorneys identified on the pleading in this case) at the telephone number listed on the pleadings. The initial call was picked up and a recorded message asked the caller to wait on the line. The ALJ waited for approximately five minutes but no one picked the line. The call was terminated and this ALJ called San Bruno Park School District's attorney, Shawn Olson Brown, to see if she was aware of another number through which Ms. Whipple could be reached. Ms. Olson Brown did not have an alternate number. This ALJ then placed Ms. Olson Brown on hold and attempted to contact Ms. Whipple again. The line was picked up by a person who identified herself as a receptionist but after soliciting information regarding the nature of the call, was unable to connect the call to Ms. Whipple. She indicated that she had no alternate number for Ms. Whipple and suggested the ALJ call back again in a few minutes.

The undersigned ALJ informed Ms. Olson Brown that the PHC would be continued until 3:45 p.m. At that time, the ALJ made a third attempt to contact Ms. Whipple. The call was again answered and after information regarding the nature of the call was provided to the receptionist, she too was unable to connect the call to Ms. Whipple or Ms. Adams. The receptionist informed the ALJ that she did not know why the call was not going through and that she had no alternate number for either Ms. Whipple or Ms. Adams.

The ALJ then connected Ms. Olson Brown and went on the record to discuss the situation. Ms. Olson Brown made a motion to continue the PHC and the due process hearing in this matter. Ms. Olson Brown indicated that if the PHC only was continued until Friday,

October 2, 2015, the next available date for a PHC, that would not be a sufficient amount of time for San Bruno to prepare for the due process hearing (scheduled for the following week) because clarification of Student's issues was necessary to adequately prepare for hearing.

Order to Show Cause:

If the parent and local education agency have not resolved the due process complaint within 30 days of the receipt of the complaint, OAH is required to issue a decision within the next 45 days, unless a continuance is granted for good cause. (20 U.S.C. § 1415(f)(1)(B)(ii); 34 C.F.R. § 300.510 (2006); Ed. Code, § 56502, subd. (f).) Given the short time frames applicable to this case, it is critical that both parties follow orders issued by OAH and participate in advancing the matter to hearing.

It appears that Student intends to proceed with the due process hearing as his attorney initially participated in the PHC with ALJ Marson; however, OAH was unable to reach Student's attorney for the prehearing conference at the telephone number provided. Accordingly, the issues in this case have not been clarified. **An Order to Show Cause is hereby issued for Student to establish why this matter should not be dismissed or San Bruno's motion to continue the due process hearing should not be granted.**

Accordingly, the PHC in this matter is continued to **Friday, October 2, 2015, at 10:00 a.m.** During that PHC, Student's attorney will first show cause as to why she was unavailable at the telephone number provided for the PHC and why this matter should not be dismissed or continued.

Should Student's attorney fail to participate in the PHC, OAH may dismiss this case without further notice. It is Student's burden to provide an alternate telephone number for his attorney if there are connectivity issues at the primary number provided.

IT IS SO ORDERED.

DATE: September 29, 2015

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings